

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

SCOTT R. SHIPLEY,

Plaintiff,

v.

ANISE ADAMS, et al.,

Defendants.

No. 2:24-cv-00032-TLN-EFB (PC)

FINDINGS AND RECOMMENDATIONS

Plaintiff is a state prisoner proceeding without counsel in an action brought pursuant to 42 U.S.C. § 1983. This proceeding was referred to this court by Local Rule 302 pursuant to 28 U.S.C. § 636(b)(1). On screening the original complaint, the court found that plaintiff had failed to state a claim and dismissed the complaint with leave to amend. ECF No. 12. Plaintiff has filed an amended complaint and a motion for default judgment. ECF Nos. 19, 21.

I. Screening Requirement and Standards

Federal courts must engage in a preliminary screening of cases in which prisoners seek redress from a governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The court must identify cognizable claims or dismiss the complaint, or any portion of the complaint, if the complaint “is frivolous, malicious, or fails to state a claim upon which relief may be granted,” or “seeks monetary relief from a defendant who is immune from such relief.” *Id.* § 1915A(b).

1 This standard is echoed in 28 U.S.C. § 1915(e)(2), which requires that courts dismiss a
2 case in which a plaintiff proceeds in forma pauperis at any time if it determines, among other
3 things, that the action “is frivolous or malicious,” “fails to state a claim on which relief may be
4 granted,” or “seeks monetary relief against a defendant who is immune from such relief.” “[The]
5 term ‘frivolous,’ when applied to a complaint, embraces not only the inarguable legal conclusion,
6 but also the fanciful factual allegation.” *Neitzke v. Williams*, 490 U.S. 319, 325 (1989)
7 (discussing the predecessor to modern § 1915(e)(2), former § 1915(d)). Thus, § 1915(e)(2)
8 allows judges to dismiss a claim based on factual allegations that are clearly baseless, such as
9 facts describing “fantastic or delusional scenarios.” *Id.* at 327-38.

10 A pro se plaintiff, like other litigants, must satisfy the pleading requirements of Rule 8(a)
11 of the Federal Rules of Civil Procedure. Rule 8(a)(2) “requires a complaint to include a short and
12 plain statement of the claim showing that the pleader is entitled to relief, in order to give the
13 defendant fair notice of what the claim is and the grounds upon which it rests.” *Bell Atl. Corp. v.*
14 *Twombly*, 550 U.S. 544, 554, 562-563 (2007) (citing *Conley v. Gibson*, 355 U.S. 41 (1957)).
15 While the complaint must comply with the “short and plain statement” requirements of Rule 8,
16 its allegations must also include the specificity required by *Twombly* and *Ashcroft v. Iqbal*, 556
17 U.S. 662, 679 (2009).

18 To avoid dismissal for failure to state a claim a complaint must contain more than “naked
19 assertions,” “labels and conclusions” or “a formulaic recitation of the elements of a cause of
20 action.” *Twombly*, 550 U.S. at 555-557. In other words, “[t]hreadbare recitals of the elements of
21 a cause of action, supported by mere conclusory statements do not suffice.” *Iqbal*, 556 U.S. at
22 678.

23 Furthermore, a claim upon which the court can grant relief must have facial plausibility.
24 *Twombly*, 550 U.S. at 570. “A claim has facial plausibility when the plaintiff pleads factual
25 content that allows the court to draw the reasonable inference that the defendant is liable for the
26 misconduct alleged.” *Iqbal*, 556 U.S. at 678. When considering whether a complaint states a
27 claim upon which relief can be granted, the court must accept the allegations as true, *Erickson v.*
28 *Pardus*, 551 U.S. 89 (2007), and construe the complaint in the light most favorable to the

1 plaintiff, *see Scheuer v. Rhodes*, 416 U.S. 232, 236 (1974).

2 **II. Screening Order**

3 Plaintiff sues Anise Adams, Chief Medical Officer at California Health Care Facility –
4 Stockton (“CHCF”) and N. Malakkla, Chief Physician and Surgeon at CHCF. ECF No. 19. The
5 entirety of his allegations is as follows:

6 The compassionate release request written by CDCR Dr. Veera Singh on 10-3-23
7 was written based upon my not being able to do my “activities of daily living.”
8 Any argument given by CDCR based on me being diagnosed with a “malignant
9 neoplasm of the right optic nerve OD” is therefore moot. As of the date of this
writing, the “request for compassionate release” has not been processed and sent
to the court for recall of sentence.

10 *Id.* at 3.

11 In screening the original complaint, the court informed plaintiff he had alleged insufficient
12 facts to state a claim. ECF No. 12. The court provided plaintiff with the necessary legal elements
13 to state a claim under the Americans with Disabilities Act and the Equal Protection Clause of the
14 14th Amendment (the two authorities cited by plaintiff in that pleading). Plaintiff has again failed
15 to state sufficient facts to state a viable federal claim. He has not remedied the absence of
16 necessary facts to state an ADA or equal protection claim, nor has he stated sufficient facts to
17 state any other federal claim. Indeed, the factual allegations are too sparse to comply with the
18 basic pleading rules of Federal Rule of Civil Procedure 8. A sufficiently plead complaint under
19 Rule 8 must “put defendants fairly on notice of the claims against them.” *McKeever v. Block*, 932
20 F.2d 795, 798 (9th Cir. 1991). Vague allegations that do not allege conduct of a specific,
21 identifiable defendant cannot survive screening.

22 Despite notice of the deficiencies in his original complaint an opportunity to amend,
23 plaintiff has not corrected the deficiencies in the amended complaint, indicating that further leave
24 to amend would be futile. *See Plumeau v. School Dist. # 40*, 130 F.3d 432, 439 (9th Cir. 1997)
25 (denial of leave to amend appropriate where further amendment would be futile).

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1 **III. Motion for Default Judgment**

2 Because plaintiff has not stated a claim, his motion for default judgment must be denied.

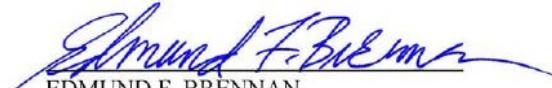
3 **IV. Conclusion and Recommendation**

4 Accordingly, it is hereby RECOMMENDED that:

- 5 1. Plaintiff's motion for default judgment (ECF No. 21) be DENIED;
- 6 2. The amended complaint be dismissed without further leave to amend;
- 7 3. The Clerk of court be directed to terminate all pending motions and close the case.

8 These findings and recommendations are submitted to the United States District Judge
9 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
10 after being served with these findings and recommendations, any party may file written
11 objections with the court and serve a copy on all parties. Such a document should be captioned
12 “Objections to Magistrate Judge’s Findings and Recommendations.” Failure to file objections
13 within the specified time may waive the right to appeal the District Court’s order. *Turner v.*
14 *Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991)

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16 Dated: August 12, 2025


17 EDMUND F. BRENNAN
18 UNITED STATES MAGISTRATE JUDGE

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